

NO. D1DC14-100139

STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

390TH JUDICIAL DISTRICT

JAMES RICHARD "RICK" PERRY

§

TRAVIS COUNTY, TEXAS


**ORDER DENYING MOTION TO COMPEL COMPLIANCE**  
**WITH ARTICLE 20.20**


On February 3, 2015, Defendant filed Motion to Compel Mr. McCrum and/or Mr. Gonzalez to Comply With Article 20.20 of the Code of Criminal Procedure.

Inasmuch as Article 20.20 has been held to be "directory," and not "mandatory," this court hereby DENIES Defendant's motion. *Jenkins v. State*, 468 S.W.2d 432, 435 (Tex.Crim.App. 1971). *See also Teague v. State*, 864 S.W.2d 505 (Tex.Crim.App. 1993) (An order to the State to present to Appellant a list of witnesses who would be called by the State at trial was sufficient); *Bruns v. State*, 924 S.W.2d 176 (Tex.App.—San Antonio 1996, no pet.) (It is well established that the requirements in article 20.20 are directory despite the use of the word "shall" therein); *Hills v. State*, 2010 WL 2330310 (Tex.App.—Austin 2010, pet. dismiss'd).

SIGNED AND ENTERED ON

2/3/2015

  
JUDGE BERT RICHARDSON  
Judge Presiding  
By Assignment

 **Filed In The District Court**  
**of Travis County, Texas**  
on 2-6-15 **HS**  
at 3:26 p **M.**  
**Velva L. Price, District Clerk**

## ORDER

The District Clerk of Travis County, Texas, is directed to immediately send copies of this Order to the following persons by certified mail, return receipt requested, or by the most practical means:

a. Attorneys For Defendant:

The Buzbee Law Firm  
Anthony G. Buzbee  
JPMorgan Chase Tower  
600 Travis Street, Suite 7300  
Houston, Texas 77002

Baker Botts L.L.P.  
Thomas R. Phillips  
98 San Jacinto Blvd., Suite 1500  
Austin, Texas 78701-4078

Botsford & Roark  
David L. Botsford  
1307 West Ave.  
Austin, Texas 78701

b. Attorneys For The State of Texas

Michael McCrum  
District Attorney Pro Tem, Travis County, Texas  
700 N. St. Mary's St., Suite 1900  
San Antonio, Texas 78205

David M. Gonzalez  
Assistant District Attorney Pro Tem, Travis County, Texas  
206 East 9<sup>th</sup> Street, Suite 1511  
Austin, Texas 78701

SIGNED and ENTERED on

2/3/2015

I, VELVA L. PRICE, District Clerk, Travis County,  
Texas, do hereby certify that this is a true and  
correct copy as same appears of record in my  
office. Witness my hand and seal of office  
On \_\_\_\_\_



Velva L. Price  
VELVA L. PRICE  
DISTRICT CLERK

By Deputy: 2/8

Bert Richardson  
BERT RICHARDSON

/ Judge Presiding  
By Assignment

NO. D1DC14-100139

STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	390TH JUDICIAL DISTRICT
JAMES RICHARD "RICK" PERRY	§	TRAVIS COUNTY, TEXAS

**STANDING DISCOVERY ORDER**

The current version of the new discovery rules found in Texas Code of Criminal Procedure Art. 39.14 apply to offenses allegedly committed after January 1, 2014. Since the offenses indicted in this case are alleged to have been committed prior to January 1, 2014, the 2012 version of Article 39.14 applies. Nevertheless, this court finds that the spirit of The Michael Morton Act should still be followed.

Therefore, the court HEREBY ORDERS that the parties confer and accomplish the following as soon as practicable, or in the event that this case is set on the jury docket, 21 days before trial with a continuing duty to supplement:

1. The State shall produce and permit the inspection of and the electronic, duplication, copying and photographing, by or on behalf of the defendant, of any offense reports, and any designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers, but not including the work product of counsel for the State in the case and their investigators and their notes or report, or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that constitute or contain evidence material to any matter involved in the action that are in the possession, custody, or control of the State or any person under contract with the state. Production of said items by the State to



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the defense must be in compliance with the Texas Code of Criminal Procedure Article 39.14 and must be accomplished as soon as practicable or within 21 days before trial.

2. The State shall reveal to the Defendant and permit inspection by the Defendant of all information and material known to the State that may be favorable to the Defendant on the issues of guilt or punishment within the scope of Brady v. Maryland, 373 U.S. 83 (1963). Pursuant to Texas Code of Criminal Procedure Article 39.14 the State shall produce any exculpatory, impeachment, or mitigating document, item or information in the possession, custody, or control of the State that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged.
3. The State shall disclose to the Defendant the existence and substance of any payment, promise of immunity, leniency, or preferential treatment made to any prospective State witness within the scope of United States v. Giglio, 405 U.S. 150 (1972).
4. Pursuant to Texas Rules of Evidence 609 the State shall disclose to the Defendant the existence and nature of any conviction for a felony or crime of moral turpitude, or any pending case, of any State's witness as soon as practicable.
5. The State shall permit the Defendant to inspect the Defendant's NCIC, TCIC, and Travis County arrest record.
6. The State shall provide to the Defendant a list of all witnesses the State may present during its case-in-chief.



7. The State shall provide to the Defendant notice pursuant to Texas Rules of Evidence Rule 404(b) of its intent to introduce in the State's case-in-chief evidence of other crimes, wrongs, or acts, other than that arising in the same transaction.
8. Pursuant to Texas Code of Criminal Procedure Article 39.14, the State and the Defense shall, upon request of the opposing party, disclose to the opposing party the name and address of each person that said party may use at trial to present evidence as an expert, pursuant to Texas Rules of Evidence 702, 703, and 705. Such disclosure shall be made in writing, not later than the 20<sup>th</sup> day before the day the trial begins.

**THE COURT HEREBY ORDERS** that, at least 10 days prior to trial, the State cause to be transcribed the Grand Jury testimony of all witnesses who may testify for the State at the trial of this cause.

**THE COURT HEREBY ORDERS** that the State is hereby placed under a continuing duty to reveal to the Defendant, as soon as practicable, all newly discovered information or material within the scope of this standing order.

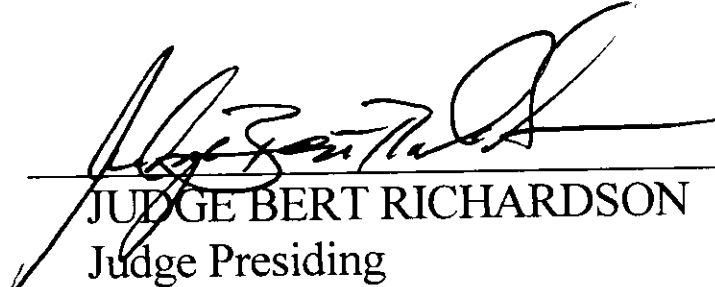
**THE COURT HEREBY ORDERS** the Defense and Defense Team to comply with Texas Code of Criminal Procedure Article 34.19(f).

The court may, at any time, upon motion properly filed, order that the discovery or inspection provided for by this standing order be modified, denied, restricted, or deferred, or make such other order as is appropriate under the Texas Code of Criminal Procedure or the Texas Rules of Evidence.



Any dispute between the State and the Defendant relating to discovery matters in general, or to compliance with this standing order, should be brought to the court's attention as soon as possible.

ORDERED AND ENTERED ON 2/3/2015

  
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Judge Presiding  
By Assignment





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Assistant District Attorney Pro Tem, Travis County, Texas  
206 East 9<sup>th</sup> Street, Suite 1511  
Austin, Texas 78701

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On \_\_\_\_\_



VELVA L. PRICE  
DISTRICT CLERK

By Deputy: 2/8

Bert Richardson  
BERT RICHARDSON

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**NO. D1DC14-100139**

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**SCHEDULING ORDER**

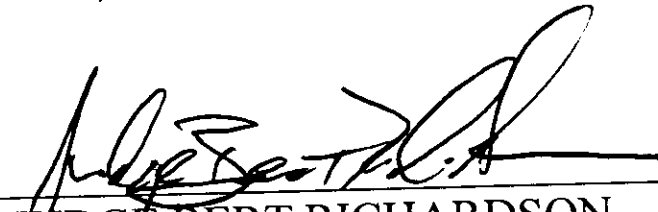
On February 3, 2015, counsel for both parties appeared in court for an informal conference. As a result of this conference, the court understands as follows:

1. No stay is being sought at this time during the pendency of Defendant's appeal of the court's order denying pretrial habeas relief.
2. The State indicated that it intends to amend Count II as permitted by the court in its Order of January 27, 2015.
3. The State also indicated that it intends to file a motion for leave to amend other portions of the indictment; although, the court has not ordered the State to so amend the indictment.
4. The State agreed to file its amendment to Count II consistent with the court's January 27, 2015 order, and the State agreed to file any other motion for leave to amend the indictment by February 13, 2015.
5. Defense counsel requested ten days to respond to whatever the State files on February 13, 2015, but indicated that he would endeavor to respond sooner.
6. Thereafter, subject to further discussion, a hearing will be set to address any and all motions before the court.

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2/3/2015

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By Deputy:

7/8

BERT RICHARDSON

Judge Presiding  
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